

Serial No. 09/768,657

Atty. Docket No. Mo 6151

REMARKS

In reply to the Office Action (Paper No. 9), Applicants respectfully request reconsideration and reexamination of the present application in view of the following amendments and remarks.

Claims 1-8 are pending in this application. Claims 1 and 6 have been amended. Support for these claim amendments may be found, for example, on page 6, lines 9-10. These claim amendments are made to clarify the subject matter therein. Therefore, these amendments are submitted in order to place the claims in condition for allowance, and do not disclaim any subject matter to which the Applicants are entitled.

Applicants acknowledge that the Examiner found the Applicants' arguments to be persuasive with regards to the 35 U.S.C. § 102(b) rejections over Lange, et al., and the Examiner withdrew the rejection over Lange, et al., (Paper No. 9, page 8). However, The Examiner did not find the Applicants' arguments to be persuasive with regards to the 35 U.S.C. § 102(b) rejection over Vetter, et al., and the 35 U.S.C. § 103(a) rejection over Lange et al., or Vetter et al., in view of Pollinger et al., (Paper No. 9, pages 8-10).

Rejection Under 35 U.S.C. § 102

The Examiner rejected claims 1, 2, and 6-8 under 35 U.S.C. § 102(b) as being anticipated by Vetter et al., (U.S. Patent No. 5,808,076) (Paper No. 9, page 2). Applicants respectfully traverse this rejection.

As amended and claimed, the invention relates to a solid phase dispersion comprising micronized quinolonecarboxylic acid or micronized naphthyridonecarboxylic acid in an insoluble matrix wherein the particle size of the solid phase dispersion is about 20 to about 100 mesh size, a method of preparing a solid dispersion, and a process for improving animal uptake of quinolonecarboxylic acid or naphthyridonecarboxylic acid.

Vetter et al., discloses preparation of a formulation of quinolonecarboxylic acid or naphthyridonecarboxylic acid and embonic acid. However, Vetter et al., does not teach or disclose micronized quinolonecarboxylic acid nor micronized naphthyridonecarboxylic acid where the particle size of the solid phase dispersion is about 20 to about 100 mesh size.

Since Vetter et al., does not teach each and every limitation of the claimed invention, a proper rejection under 35 U.S.C. § 102(b) has not been established. Accordingly, Applicants respectfully request reconsideration and withdrawal of the of the present rejection.

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Rejection Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1, 2, and 6-8 under 35 U.S.C. § 103(a) as unpatentable over Vetter, et al., (U.S. Patent No. 5,808,076). (Paper No. 9, pages 3-4). Applicants respectfully traverse.

The invention relates to a solid phase dispersion comprising micronized quinolonecarboxylic acid or micronized naphthyridonecarboxylic acid in an insoluble matrix wherein the particle size of the solid phase dispersion is about 20 to about 100 mesh size, a method of preparing a solid dispersion, and a process for improving animal uptake of quinolonecarboxylic acid or naphthyridonecarboxylic acid.

As discussed above, Vetter, et al., do not teach or suggest micronized quinolonecarboxylic acid or micronized naphthyridonecarboxylic acid wherein the particle size of the solid phase dispersion is about 20 to about 100 mesh size. Based on the disclosure by Vetter, et al., one skilled in the art would not have been motivated to prepare a solid phase dispersion in which the particle size is about 20 to about 100 mesh size. Since Vetter et al., do not teach or suggest all the claim limitations, that is, a particle size about 20 to about 100 mesh size, then a proper rejection under 35 U.S.C. § 103(a) has not been established.

It is therefore submitted respectfully that Vetter et al., fail to teach or suggest a solid phase dispersion as presently claimed, and that the current invention is novel and nonobvious in view of the prior art references. For the foregoing reasons in this section, Applicants respectfully request reconsideration and withdrawal of the present rejections.

Rejection Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1, 2, and 6-8 under 35 U.S.C. § 103(a) as unpatentable over Lange, et al., (U.S. Patent No. 5,152,986) in view of Vetter, et al., (U.S. Patent No. 5,808,076). (Paper No. 9, pages 4-5). Applicants respectfully traverse.

The invention relates to a solid phase dispersion comprising micronized quinolonecarboxylic acid or micronized naphthyridonecarboxylic acid in an insoluble matrix wherein the particle size of the solid phase dispersion is about 20 to about 100 mesh size, a method of preparing a solid dispersion, and a process for improving animal uptake of quinolonecarboxylic acid or naphthyridonecarboxylic acid.

The Examiner acknowledges that Lange, et al., do not teach micronized quinolonecarboxylic acid or micronized naphthyridonecarboxylic acid (Paper No. 9, page 5). In addition, Lange, et al., also do not teach or suggest a solid phase dispersion in which the particle size is about 20 to about 100 mesh size.

The deficiencies of Lange, et al., are not remedied by Vetter, et al. As discussed above, Vetter, et al., do not teach or suggest micronized quinolonecarboxylic acid nor micronized naphthyridonecarboxylic acid where the particle size of the solid phase dispersion is about 20 to about 100 mesh size. Thus, based

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on the disclosures of Lange, et al., and Vetter et al., a skilled in the art would not have been motivated to prepare a solid phase dispersion in which the particle size is about 20 to about 100 mesh size.

Since the combination of references does not teach every element of the claimed invention, these references cannot be combined to support a rejection of the claims under U.S.C. § 103(a). MPEP § 2143.

It is therefore submitted respectfully that Lange et al., either singly or in combination with Vetter, et al., fail to teach or suggest a solid phase dispersion as presently claimed, and that the current invention is novel and nonobvious in view of the prior art references. For the foregoing reasons in this section, Applicants respectfully request reconsideration and withdrawal of the present rejections.

Rejection Under 35 U.S.C. § 103(a)

The Examiner rejected claims 3-5 under 35 U.S.C. § 103(a) as unpatentable over Lange, et al., (U.S. Patent No. 5,152,986) or Vetter, et al., (U.S. Patent No. 5,808,076) in view of Pollinger, et al., (U.S. Patent No. 5,695,784). (Paper No. 9, pages 6-7). Applicants respectfully traverse.

As discussed above, Lange, et al., do not teach or suggest micronized quinolonecarboxylic acid or micronized naphthyridonecarboxylic acid, nor a solid phase dispersion in which the particle size is about 20 to about 100 mesh size. Furthermore, Vetter, et al., do not teach or suggest micronized quinolonecarboxylic acid nor micronized naphthyridonecarboxylic acid where the particle size of the solid phase dispersion is about 20 to about 100 mesh size.

Pollinger, et al., also do not teach or suggest micronized quinolonecarboxylic acid or micronized naphthyridonecarboxylic acid where the particle size of the solid phase dispersion is about 20 to about 100 mesh size. Thus, based on the disclosure of Pollinger et al., one skilled in the art would not have been motivated to prepare the solid phase dispersion as claimed in the present invention.

Since the combination of references does not teach every element of the claimed invention, these references cannot be combined to support a rejection of the claims under U.S.C. § 103(a). MPEP § 2143.

It is therefore submitted respectfully that Lange, et al., or Vetter, et al., either singly or in combination with Pollinger, et al., fail to teach or suggest a solid phase dispersion as presently claimed, and that the current invention is novel and nonobvious in view of the prior art references. For the foregoing reasons in this section, Applicants respectfully request reconsideration and withdrawal of the present rejections.

CONCLUSION

For the foregoing reasons, Applicants submit that the claims are in condition for allowance and Applicants respectfully request reexamination of the present application, reconsideration and withdrawal

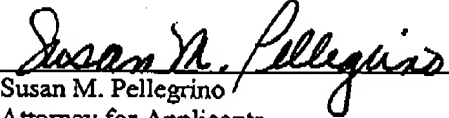
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of the present rejections, and entry of the amendments. Should there be any further matter requiring consideration, Examiner Sheikh is invited to contact the undersigned counsel.

If there are any further fees due in connection with the filing of the present reply, please charge the fees to undersigned's Deposit Account No. 13-3372. If a fee is required for an extension of time not accounted for, such an extension is requested and the fee should also be charged to undersigned's deposit account.

Respectfully submitted,


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